IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 4TH JUNE 2007 / 14TH JYAISHTA 1929

MACA.No. 542 of 2004(D)

O.P(MV).NO.119/1997 OF MOTOR ACCIDENT CLAIMS TRIBUNAL, KOTTAYAM.
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APPELLANT/PETITIONER:

K.A.RAJAPPAN,
KAPPAKKALAYIL, PADIYARAKADAVU BHAGOM,
PATHAMUTTOM P.O., CHINGAVANAM, KOTTAYAM.

BY ADV. SMT.BETTY K.ALUKKA.

RESPONDENTS/RESPONDENTS:
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1. **R.JAYALAL, S/O. RAMANKUTTY,**
   JAYA BHAVAN, PAKKIL P.O., NATTAKOM.

2. **THANKACHAN, S/O. SUKUMARAN,**
   SASTHAPARAMBIL HOUSE, NEAR ELAMKAVU TEMPLE,
   AYMANAM P.O., KOTTAYAM.

3. **NEW INDIA ASSURANCE CO. LTD.,**
   KOTTAYAM DIVISION, REPRESENTED BY ITS
   DIVISIONAL MANAGER.

BY

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR ADMISSION ON 04/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B.KOSHY & M.N.KRISHNAN, JJ.

M.A.C.A.No.542 OF 2004

Dated 4th June, 2007

JUDGMENT

Koshy,J.

Appellant/petitioner approached the Motor Accidents Claims Tribunal contending that he has sustained injuries on 16.8.95 in an accident occurred due to the negligence of the second respondent driver. According to him, the tempo van driven by the second respondent and insured by the third respondent insurance company hit him and the accident occurred. In the wound certificate, history of injury is mentioned as " ".
It is also mentioned that he was smelling alcohol. The accident is alleged to be occurred in 1995. It is true that on the basis of private complaint filed after two years of the incident, police charge sheeted the second respondent. The insurance company filed a counter statement denying the accident and negligence of the second respondent driver. If the accident occurred as suggested by the appellant, he would have raised the complaint immediately. Normally, hospital authorities itself will inform the police. Further, there is no case that he was bed ridden for two years. Appellant also failed to come to the box and swear that he sustained injury due to a motor accident as alleged by him. No disability

certificate was also produced before the court. The Tribunal rightly rejected the claim as it was not proved that he sustained the injuries in a motor accident. We see no ground to interfere with the award.

The appeal is dismissed.

J.B.KOSHY
JUDGE

M.N.KRISHNAN
JUDGE

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